



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,941	06/17/2005	Harald Wolf	3926.177	1142
30448	7590	08/31/2007		
AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER ADAMS, GREGORY W	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 08/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/539,941

Applicant(s)

WOLF, HARALD

Examiner

Gregory W. Adams

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 10, 2007 has been entered.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6 & 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2-6 provide for the use of carrier units, but since the claim does not set forth any steps involved in the method/process it is unclear whether the structure recited is required by the method. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced, e.g. it doesn't begin a step with "providing" or "using" or some other **-ing** ending word that provides the active step. (Emphasis added.) Applicant is respectfully reminded that to be entitled to patentable weight in method claims, the structural limitations recited therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of

Art Unit: 3652

a particular structure. See Ex parte Pfeiffer, 135 USPQ 31 (1961). For purposes of examination, proper method claim language was assumed.

With respect to claim 10, the phrase "and/or" in line 2 renders the claim indefinite because a limitation can be optional or required but cannot be both. See MPEP § 2173.05(d). For purposes of examination, the limitation following "and/or" will be treated as --and--.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scholz (US 5,503,518) in view of Kirsten (US 3,325,977).

Scholz discloses a method for transporting bodywork panels of a vehicle comprising:

- providing an endless transport device 1, equipped with a plurality of carrier units 38 that are spaced at intervals in an obliquely upward transport direction, each respective carrier unit 38 having at least two carrier elements 33 that project substantially perpendicular to a transport direction (indicated generally as 38) and are spaced at a distance in a direction transverse to a transport direction,
- stacking an associated group of panels on a carrier unit (16),

Art Unit: 3652

- transporting a group of panels as far as a panel removal station 4, and
- in each case removing an individual bodywork panel by a panel separation device.

Scholz does not disclose adjusting intervals or distances. Kirsten discloses a method comprising adjusting intervals between carrier units in a transport direction (c3/L36) and adjusting a distance between the carrier elements in a direction transverse to a transport direction (C3/L1) such that carrier units can accommodate articles of different widths and configurations. C1/L15. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Scholz to include adjusting intervals or distances, as per the teachings of Kirsten, to accommodate articles of different sizes and configurations.

With respect to claims 7 & 10-13, Scholz discloses a transport device comprising-

- a plurality of carrier units 38 that are spaced at intervals in an obliquely upward transport direction, each respective carrier unit having two carrier elements 33 projecting substantially perpendicular to a transport direction and spaced at a distance in a direction transverse to a transport direction, such that:
- an associated group of panels can be stacked on at least one carrier unit,
- a group of panels can be transported as far as a panel removal station, and
- in each case an individual bodywork panel can be removed by a panel separation device at a panel removal station.

Art Unit: 3652

Scholz does not disclose adjusting intervals or distances. Kirsten discloses a transport device comprising adjusting intervals between carrier units in a transport direction (c3/L36) and adjusting a distance between the carrier elements in a direction transverse to a transport direction (C3/L1) such that carrier units can accommodate articles of different widths and configurations. C1/L15. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Scholz to include adjusting intervals or distances, as per the teachings of Kirsten, to accommodate articles of different sizes and configurations.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7 & 10-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 3,595,376 to Tonelli discloses adjusting a distance transverse to a transport direction via movable frames. (C1/L55)
- US 3,765,458 to Ziegler et al. discloses adjusting an interval via carrier elements 1 that selectively lock onto carrier units 26, 27.
- US 5,711,412 to Gysin et al. discloses adjusting an interval via biasing member 3.

Art Unit: 3652

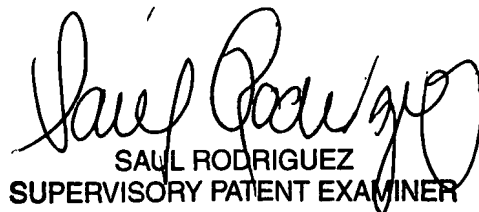
- US 6,471,041 to Long et al. discloses carrier elements that adjustable inasmuch as they can be attached and/or reattached to carrier units 20 at any point via a removable connection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA GWA

  
SAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER